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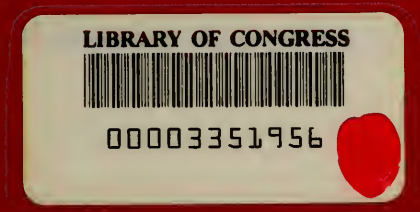

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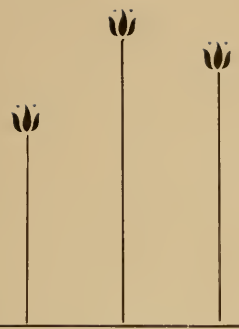
JOHN MARSHALL.

1801-1901.

With the Compliments of

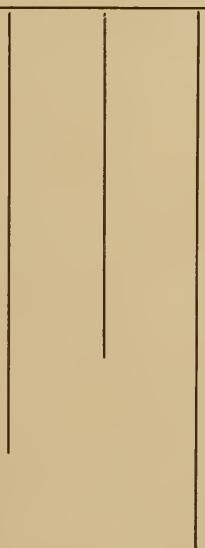
Henry B. and Ada H. Kepley.

1801-1901.



Celebration of...

John Marshall Day



MONDAY,
FEBRUARY 4,
1901.

BY THE
EFFINGHAM COUNTY BAR,
EFFINGHAM, ILLINOIS.

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PROGRAM.

Invocation..... ..... Rev. W H. Pool

Song—America.

Address—"Marshall as an Advocate and Expounder of the Constitution"..... H. B. Kepley

Song—The Star-Spangled Banner.

Address—"What has all this to do with Marshall?" ....R. C. Harrah

Song—Hail Columbia.

Address—"Marshall as an Exponent of the Civil as Contradistinguished from the Military Power in Government"..... S. F. Gilmore

Song—The Red, White and Blue.

Address—"Marshall as a Judge"..... Wm. B. Wright

Song—Battle Hymn of the Republic.

Address—"Marshall as a Patriot"..... Ada H Kepley

Song—Home, Sweet Home.

Benediction..... ..... Rev. S. M. Morton

PROCEEDINGS.

JOHN MARSHALL DAY was celebrated at Effingham by the Effingham County Bar on February 4th, 1901, the one hundredth anniversary of his induction into the office of Chief Justice of the United States.

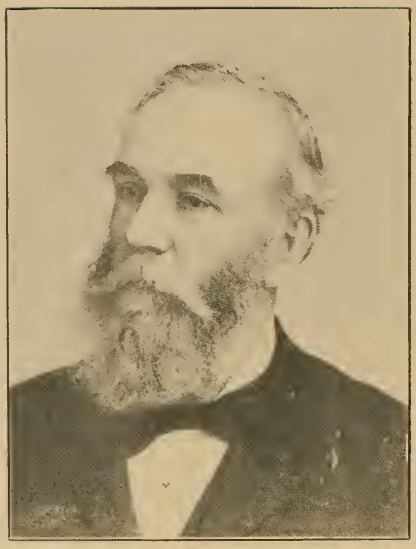
Hon. Benson Wood presided, and after an eloquent and interesting opening address, introduced Rev. W. H. Pool, of the Methodist Church, who offered the following invocation:

"Our Father, who art in Heaven, we thank Thee, Thou art God, Thou hast power in Thine own hand to make laws, to judge and to execute. We thank Thee Thou hast preserved our rights unto this hour. Thou has saved this glorious land with all her sacred priviliges. Help us to appreciate what we have. We are met to celebrate the one hundredth anniversary of one who was a shining light in the Courts of our land. May the influence of his life and example inspire our people to make better laws, to judge, to execute with force and fidelity. We pray Thy blessing upon the Effingham Bar. May they be like him whom we honor today, a man of whom it was said,

"He was conscience made flesh;
He was reason incarnate."

May they be a blessing to this place; may they in their life be a benediction to all mankind. Bless the service of tonight, and the exercises of the hour throughout the land. Bless all the people, and hasten the time when righteousness and truth shall prevail over sin and error, and in the name of Him Who is Judge of all the earth, we pray that the Kingdom of God may be built up in our hearts and in the minds and hearts of all our people, for Jesus' sake, Amen.

The addresses which appear upon the following pages were then delivered in the order in which they appear.



HON. H. B. KEPLEY.

ADDRESS BY HENRY B. KEPLEY.

"Marshall as an Advocate and Expounder of the Constitution."

Mr. Chairman, Ladies and Gentlemen:

It is not my intention to enter upon a eulogy of John Marshall. My limited time will not permit. It is my purpose to speak of his great services in connection with the Federal Plan of Government, which resulted in the National Government of the United States under the Constitution; of his advocacy of the adoption and ratification of the Constitution, and his able and patriotic interpretation and expounding thereof after it had been ratified.

His great service in connection with the adoption, ratification and interpretation of the Constitution stands as a perpetual eulogy of him. His acts in that regard speak louder than any words of eulogy which can be uttered. Marshall was conspicuous among those who advocated the establishment of a strong Federal government by uniting the States into a National government, under a Constitution providing for three independent, co-ordinate departments—legislative, executive and judicial, with the powers of each department properly defined.

He believed that the Constitution of the United States, with its wisely distributed powers, express as well as implied, contained the provisions, properly construed and interpreted, requisite to an efficient National Government, yet with limitations well adapted to protect individual liberty.

In order to fully appreciate the services of Marshall as an expounder of the Constitution, and to place upon such services their proper value to the Nation, it is necessary to have in mind the state of public sentiment and feeling at the time the federal or national plan of government under the Constitution was devised and ratified.

The people of the Colonies having, after a long and bloody war, gained their independence, were exceedingly if not superstitiously fearful of the encroachments of a central or federal government, and many viewed with the utmost

alarm the movement to form such a government, and the cry of "monarchy" was raised, and a wild clamor of "consolidation" was heard on every hand.

Many who recognized the fact that an efficient national government was requisite to permanence and perpetuity, yet led by an undefined, indescribable fear of a central power, opposed a change from a Confederate to a National government.

On one side the Articles of Confederation were considered as weak as "a rope of sand." On the other side, the sentiment was: Better the weakness of a rope of sand in the hands of the people, than the strength of a chain in the hands of a central power—a National Government.

Marshall, in after years, described the state of public sentiment and opinion against which he and those acting with him had to contend, by saying: "The country was divided into two great political parties, the one of which contemplated America as a nation and labored incessantly to invest the Federal Head with power competent to the preservation of the Union. The other attached itself to the State Governments, viewed all the power of Congress with jealousy, and assented reluctantly to measures independent of the members."

Such was the state of public sentiment and feeling against which Marshall and his co-workers had to contend in securing the adoption and ratification of the constitution and obtaining and maintaining an interpretation and construction thereof which would insure the permanence and perpetuity of the Government under the Constitution.

After the Declaration of Independence, Governmental affairs were conducted by the Continental Congress which, at most, was but an advisory body with undefined authority and without the means of enforcing its requests or demands.

Then followed the Articles of Confederation, conferring some further Governmental authority, but which fell far short of conceding the authority required to maintain a vigorous and efficient Government and to assure the perpetuation of the blessings of independence and liberty achieved by the Revolution.

Then it was that such men as Washington, Hamilton, Franklin, Marshall, Adams, Jay, Randolph and others, seeing

the many defects in the plan of Government under the Articles of Confederation and discerning that a "more perfect union" was necessary, devised a plan for a federal or national government under the constitution, to be adopted by Congress and ratified by the States.

This plan of Government, designated as the Federal Plan, was strenously and bitterly opposed by Patrick Henry, James Monroe, Geo. Clinton and others, as opening the way for oppression; as leading to the extinguishment of the sovereignty of the States and as dangerous to the liberty of the people: contending that State sovereignty was the true basis of the Government; that the evils arising from the admitted weakness of the Articles of Confederation "were as nothing compared to the surrender of State independence to Federal Sovereignty."

After the Constitution had been formed and submitted to the States for ratification, Marshall became a candidate for election as a member of the Virginia Convention, called to act upon the question of ratification.

Able and influential friends, who opposed ratification, threatened to defeat him unless he pledged himself to oppose ratification. He not only refused to make such a pledge, but on the contrary, declared himself in favor of ratification, and on that issue he made the campaign and so ably did he present the issue, and such was his popularity, that he was elected a member of the convention, though the sentiment of the District was adverse to ratification.

In the Virginia Convention Marshall's advocacy of the ratification of the Constitution was able and vigorous and far reaching; influencing the ratification of the Constitution, not only in Virginia, but also by other States. His masterly arguments in favor of ratification were heralded abroad thrughout the country and favorably influenced ratification by other States.

In the Virginia Convention he met in debate on the question of ratification such men as Patrick Henry, James Monroe and George Mason, who opposed ratification, and he successfully defended the Constitution against their assaults.

Patrick Henry opposed ratification of the constitution

with as much zeal, as much ability, as much eloquence, as when in the Virginia House of Burgesses he favored the Revolution and made that world famous speech in which he exclaimed "Give me liberty or give me death."

Marshall successfully met the appeals, the eloquence, the arguments of Patrick Henry against ratification with unanswerable arguments, addressed to the reason rather than to passion and sentiment. If ratification had failed in Virginia it would, without doubt, have failed in a sufficient number of States to have defeated the Constitution. It may, therefore, be confidently asserted that without the efforts of Marshall in favor of the Constitution and the ratification thereof, ratification would not have carried, for, with all his efforts, it only carried by a vote of eighty-nine to seventy-nine, and it can not be doubted that his great influence and able arguments gained more than ten of the votes in favor of ratification.

In 1799 Marshall was elected to Congress and took an active part in the discussion of constitutional questions in that body. He there met the ablest men in the country and proved to be, and was recognized as, the ablest expounder of the Constitution in Congress; as great among the great; as "a giant among giants."

But the crowning benefits conferred upon the nation by Marshall are his wise and patriotic interpretation and learned expounding of the Constitution as Chief Justice of the Supreme Court of the United States, into which office he was inducted on the 4th day of February, 1801, the first centennial of which we are now commemorating.

For more than thirty-four years Marshall, as Chief Justice, met and determined great constitutional questions, which arose during the formative period of the National Government, in a manner which saved to the people the liberties achieved by the revolutionary war, and by reason thereof is entitled to the chief place among the advocates and expounders of the Constitution.

One writer says of Marshall:

"He is famous in the national annals for his great opinions defining and interpreting the Federal Constitution and in aiding to consolidate the Union."

Soon after the Constitution was ratified controversy arose as to the construction to be placed thereon. One party, the Republican, led by Jefferson, Monroe, Gallatin and other distinguished men, contended for a strict construction of the Constitution and that no power was conferred other than that which is expressly mentioned. The other party, the Federal, led by Hamilton, Adams, Jay, Randolph and others, contended for a liberal construction and that in the general terms used in the Constitution were included implied powers and authority.

The construing and interpreting of the Constitution and determining what powers, under the Constitution, were conferred upon the national government and what was reserved to the States or to the people, devolved upon the federal judiciary, of which Marshall was the head and his decisions on the points involved, carried the nation through the experimental period and settled, from a legal point of view, the question of supremacy.

In the opinion written by Marshall in McCulloch vs. State of Maryland, as expressive of his views he said: "The Government of the Union is a Government of the people; it emanates from them; its powers are granted by them and are to be exercised on them and for their benefit. The Government of the Union, though limited in its powers, is supreme within its sphere of action, and its laws, when made in pursuance of the Constitution, form the supreme law of the land."

Along the line of doctrine announced in the decision above mentioned were many other decisions of the Court applying the doctrine above set forth to the various phases of Constitutional Government, but owing to limited time, I will only refer to a few of these decisions.

First in the order of importance, is the decision that, under the Constitution, the Supreme Court of the United States has the authority to pass upon the constitutionality of an act of Congress, and if found to be unconstitutional, to declare it void. Next in order of importance, is the decision that the Constitution gives to the Supreme Court authority to pass upon the question whether an act of the Legislature of a State

is in accordance with the Constitution of the United States, and if not, to declare it void.

That decision was a blow to the advocates of State sovereignty in controvention of national supremacy and was denounced by them and increased and intensified the party feeling upon the question involved.

In the celebrated Dartmouth College case, Marshall held that the Constitution prohibited Congress or a State Legislature from impairing the obligations of contracts or interfering with vested rights.

Another decision held that even the President of the United States could not order to be done that which was not sanctioned by the Constitution.

In a suit against the commander of a war ship to recover damages for a wrongful act, the commander plead in defense an order from the President to do what was done and it was held by Marshall that such a defense was not good; that instructions not warranted by law can not legalize a trespass" even though the instruction comes from the President of the United States.

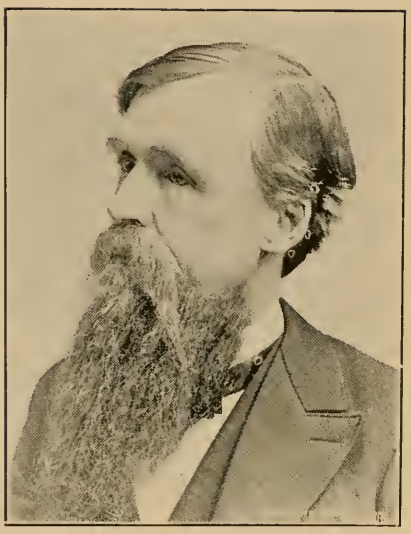
While under the decision of Marshall on the questions of whether the Constituton should be strictly or liberally construed; whether State sovereignty or National supremacy should be the basis of Government, were binding and became the law of the land, yet the struggle for the doctrine of State sovereignty was continued, and, in fact, did not end till Appomatox was reached, at the end of the war of the rebellion, when it was finally settled by the arbitrament of war. This fact, however, does not take a leaf from the crown of laurel which the history of the nation has placed upon John Marshall. The fact that the contention of the Government had been, by the highest court in the world, held to be legally correct, added great strength to the arm of the Government in the war of the rebellion.

The history of his time renders it probable, yea almost conclusive, that without the interpretation of the Constitution given it by Chief Justice Marshall and his unanswerable reasoning in support of such interpretaion, the Federal Plan—the National Government, under the Constitution would not have survived till now.

It has been said by those well informed in the premises that, without the aid of Marshall in planning the form of Government under the Constitution, it would not have been so efficiently planned; that, without his influence in favor of the Constitution, it would not have been adopted; that, without his able advocacy of the Constitution after it had been formed and submitted to the States, it would not have been maintained and the Government under it perpetuated.

On first view it may be thought these propositions are to strong, but it is confidently believed that a proper knowledge of Marshall's great service in connection with the adoption, ratification and expounding of the Constitution will bear out these propositions and justify such a conclusion.

As a citizen, as a delegate to the Virginia Convention, as a member of Congress, as a Cabinet Officer, but above all, as Chief Justice of the United States Supreme Court, Marshall was the great advocate and expounder of the Constitution, and is pre-eminently worthy of the title of Advocate and Expounder of the Constitution and has a rightful place among the founders and builders of the Republic, and as such it is highly proper that his memory should be perpetuated and his great services, in laying deep, broad and firmly the foundation of our Nation, should be appreciated and commemorated by all American citizens.



HON. R. C HARRAH.

ADDRESS BY HON. R. C. HARRAH.

"What Has All This to do with John Mashall?"

Mr. Chairman, Ladies and Gentlemen:

At a farmers' institute recently held in this city, one of the lecturers advised his audience if engaged in stock raising, to procure pictures of the finest specimens of the particular breed in which they were most interested, and put them in their homes that they might always be reminded of the highest and best types of animal life. This was a practical suggestion, because if the farmer once falls in love with the beautiful and useful, he can hardly find room for a scrub animal on his premises. So the thought is equally suggestive; if we would have the highest and best type of citizenship, we must hold up to view the lives of the noble men and women who have made our country illustrious, its institutions honored and respected. And if an apology for this meeting, by the Bar of this city, were demanded, this might be the answer. Not that we believe in hero worship, or in fulsome or excessive adulation of the great men of the nation.

The world is full of books, yet how little do we know of the lives of the greatest and best men who have blest the nation with their example. If they should come back to us, like Rip Van Winkle, after twenty years, they might well exclaim, "and are we so soon forgot."

We appropriate and use the rich legacies which by self-denial, industry, and the practice of the strictest virtues, they have left us, with no other thought than that these things must always have been so.

Why this is a Republic, and why we have three co-ordinate branches of government, each, in theory, separate and independent of the other, we do not stop to inquire, but rush madly after the latest work of fiction. Gulliver, Pickwick and Don Quixote, heroes of romance, are greater men than George Washington, Thomas Jefferson and John Marshall, heroes of fact. The good books that treat of men who once had a being are pushed aside for the love stories written to satisfy the public's demand for depravity in literature.

And so the good books, the beautiful pictures, through which we behold the noble traits of the character of the men who shaped and fashioned our present form of Government, are not put in conspicuous places in our houses. If books were our household Gods, and we were fleeing with them to a new country to establish a new government, as our fathers did, many of us would not have a single volume that would help us to erect the new structure.

You may ask "and what has all of this to do with John Marshall?" Simply this. We apparently know nothing of him.

A few days after this meeting was arranged, a member of this bar visited the library in this city, in search of a book that would give a full account of the life and character of the great Chief Justice. The young ladies in charge smiled and asked if it were a book on John Marshall. He plead guilty, but that did not help him in his quest for more light. Out of nearly one thousand volumes could not be found any book with more than a page or two devoted to his life, and that too of a man who presided for thirty-four years over the highest judicial tribunal on earth, and of whom it has been justly said when he was inducted into office: "He found out Constitution paper, he made it a power; he found it a skeleton and clothed it with flesh and blood.

Throughout all of our extended territory, the most solemn oath that can be administered is to support that same Constitution; not allegiance to any man or set of men, but fealty to the charter of our liberties; not loyalty to a Prince of Potentate, but love for a principle, an ideal, which was but a dream of the preceeding ages, until our forefathers, such men as John Marshall, by their hardships and zealous watchcare, made it the bedrock on which the hopes, the aspirations of the greatest, the freest people on earth rest.

He fought with Washington at Brandywine, Germantown and Monmouth; endured the hunger and privations of Valley Forge; labored in the Legislature of Virginia to secure the adoption of the Constitution, and afterwards defended it with marked ability in the Halls of Congress. And so, it was the most natural thing that when he was elevated to this high office,

in the formative period of our Government, he should give to the conflicting questions that came before him such construction as would give vitality to the organic law, and thereby secure to posterity the fruits of the war for independence.

It is true that the Constitution, on is face, purports to be supreme, and it is so, not because of the bare statement of the fact, but because Marshall, and his associates, by their judicial fiat said it must be so. The lawyers of that day followed English precedent, and it was difficult to eradicate the idea that any law which Congress might pass and the executive approve, was not supreme, notwithstanding it might be in conflict with the Constitution, but Marshall rose to the occasion and declared that the Courts possessed the power to hold such an act void.

It is for such decisions as this, during the thirty-four years he presided as Chief Justice, that his memory is honored and respected by the Bar of America. Most of them were without precedent upon the broad principle of justice and right. Without chart or compass he piloted the Constitution from the breakers to the high seas, where it has outrode the fiercest storms of the century past. He was a student and a scholar, with an intuitive knowledge of the right thing to do at the right time; a kind neighbor, a model husband and father; irreproachable in private life, and with a moral courage in public life, that repelled every attempt made to secure from him a wrong decision. He was an impartial, just and upright judge. But we can not rightly appreciate him, or at this distance out, behold him in his best estate, without a more intimate acquaintance with the men of his time, "who builded better than they knew."

So, let us put up the pictures, look to the ideal man in public life, and gather new inspirations of public virtue from the rich treasures of the past, that it may not be said of us, "We unworthily enjoy blessings transmitted to us by a noble and heroic ancestry."

HON. S. F. GILMORE.

ADDRESS BY HON. S. F. GILMORE.

"Marshall as an Exponent of the Civil as Contradistinguished from the Military Power in Government."

Mr. Chairman, Ladies and Gentlemen:

From the earliest ages man has been a worshiper of pomp, parade, display, and militarism.

The early history of the race is but a recounting of the achievements in battle, the triumphs of soldiery, the march of armies, the victories of blood, and the establishment of thrones and the crowning of Kings through carnage and death.

Not only history, but legand, sculpture, painting, poetry and song have come down to us through the ages with attractive and seductive influences, marshalling before the admiring gaze of mankind the dazzling pomp and power and glory of the Military Chieftians of the world. And the exploits of the commanders of armies have generally, almost universally, been exalted far above the modest, retiring and peaceful men who by peaceful methods have led their countrymen into truer principles of living and into better Governments.

We have met this evening to commemorate the life and character of one who, in the paths of peace, contributed as much, possibly more, than any other single individual of his time to connect our country's name with the history of the world, and to give it a place, and to render it a power for leading them into a higher regard for the rights of man and into better forms and principles of Government for maintaining individual liberty. In the struggle, forced upon a people seeking only a just recognition of the inalienable rights of man, he performed a conspicious and honorable part; but when the war for independence ended John Marshall put aside his sword, and taking his place in the civil walks of life, devoted himself with assiduity to the practice of law, in which he early attained great eminence.

In January, 1801, he was appointed by President Adams Chief Justice of the Supreme Court of the United States, and on the 4th day of February of the same year he entered upon

the onerous and responsible duties of that high office, scarcely second in point of dignity, and I believe first in point of honor and usefulness to the people and to the country.

In that position, without precedent to guide him, or authorities to consult, governed only by desire to promote the broad principles of right and justice in the administration of government he made precedents, and by his judicial opinions created authority, which the ablest of the world for a hundred years have recognized and adhered to as unerringly correct.

By the mere strength of his intellect, by his boldness and independence of thought, by persistent and almost unremitting labor and diligent research for more than a third of a century, and by the purity of his character he laid the foundation for the superstructure of a system of juris-prudence under his judicial construction of the powers of the Government under the Constitution, over, and its duties to the several States and the citizens thereof, which has proved as ample for the securing of the rights of eighty millions of people spread out over an area of territory as wide as the earth if requisite for their expansion, as it was for the Government of five millions of people, living in a comparatively circumscribed area at the foundation of the Government.

Coming upon the bench at a time of bitter partisan rancor, growing out of two diametrically opposite views and theories of the powers of the Government under the Constitution, himself conscientiously imbued with the theories of one of the great leading parties, it should not be a matter of wonder that by reason of being made Chief Justice he did not at once cease to be a man; nor should it be considered that in order to have suddenly been clothed with power to wholly divest himself of all preconceived theories and opinions with reference to questions that came up for the first time in the history of the Government for judicial determination.

And it is not claimed for him that all his judicial constructions of the limitations of the Constitution were free from political bias, and were uninfluenced by long entertained views of what to him had seemed correct of administration; and it is no doubt true that, insensibly to himself perhaps, he engrafted the

reflex of his own political opinions upon the law as he declared and established it, and thus became more powerful in enforcing from the bench the theory of his school of politics than had he held the position of the enactor of statutes.

Indeed he was subjected to criticism upon that point, but it may be replied that this was inseparable from the infirmites of human nature and further it could not be cause for just criticism, for in the absence of precedent, which as a judge he would assuredly have followed, why might not a conscientious judge adopt the reasoning and conclusions of his own mind, if consistent with correct fundamental principles as he understands them, in reaching judicial conclusions.

But the fullest answer to the criticism made upon him, is found in the fact that the great Tribunal since presided over by a line of jurists distinguished alike for their probity and learning, has never reversed or materially modified any of the constructions of the Constitution as enunciated by him.

And John Marshall today, a hundred years from the date of his induction into the office of Chief Justice of the Supreme Court of the United States, is recognized not only by the people, by the great statesmen of the country, and its ablest jurists, but by the judges of the same Court, as the true expounder of the Constitution of our country; and his judicial construction of the powers of the Government under it are accepted as the law wherever the authority of the Constitution extends.

Removed as we are now from the bitterness of partisanships that prevailed in those days, and looking back over the vast field of new and intricate questions involved in the application of principles entirely new in the construction of a written Constitution for the Government of a new born nation, it must be conceded that John Marshall, as practically the first Chief Justice of the United States, rose to the responsibilities which the great office imposed. And not only all American lawyers, but all the people of our country, may well count it as a marked favor of Almighty God toward our Nation that so great a mind, directed by such conscientiousness, and a man of such unblemished public character and such purity in private life, was called to the responsible position which has given to

our Constitution, in almost all the phases of it in which constructions were necessary, constructions which are in harmony with those universally recognized principles of justice and right, which must underlie the fabric of a stable Government, and which subsequent experience has shown were essential to its perpetuity.

The overthrow of all attempts to forcible nullification as well as of all attempts at secession have long since taught our people that the construction of Chief Justice Marshall was right, wherein he declared the law to be that the Constitution of our country created a national Government, which was endowed with power, by its organic act, to adopt necessary laws to enforce its perpetuity. His inflexible purpose to interpret the law correctly, independently of personal consideration, and of executive influence, was illustrated in the case of Marbury vs. Madison, in which the rights of an appointee to office by President Adams just at the close of his administration, an appointment that was very distasteful to President Jefferson, between whom and Judge Marshall there had been such bitter partisan feeling as had led to strained personal relations, came before the Supreme Court. The political friend and the executive who had called Marshall to his high office, was the real plaintiff and the bitter political opponent of the Chief Justice was the real defendant.

The case was before the Court when the judge was fresh from the arena of partisan politics at a time when it might have been supposed personal and politcal considerations might not as yet have lost their potency over the mind of even a conscientious man and an upright judge. A question that had never before come before the Supreme Court was presented, namely, the right and duty of the Court to pass upon the constitutionality of a law of Congress; not only a new, but a delicate question, one which at that time seemed to be an invasion by one branch of the Government upon the independence and power of a co-operate branch, the right of the Court to declare an act of Congress a nullity.

In the course of the opinion Judge Marshall said, "The question whether an act repugnant to the Constitution can be-

come the law of the land is a question deeply interesting to the United States. * * If the Courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the Legislature, the Constitution, and not such act must govern the case to which they apply.

"Those who controvert the principle that the Constitution is to be considered in Court as a paramount law, are remanded to the necessity of maintaining that Courts must close their eyes on the Constitution and see only the law. * * * Could it be the intention of those who gave this power to say that the Constitution should not be looked into? This is too extravagant to be maintained.

"It is declared no tax or duty shall be levied on articles exported from any State; suppose a duty on the export of cotton, tobacco or flour, and a suit instituted to recover it, ought the judges to close their eyes to the Constituion and only see the law?

"The particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written Constitutions, that a law repugnant to the Constitution is void, and that courts as well as other departments are bound by that instrument."

In arriving at the judgment of the Court, Judge Marshall, closing his eyes to every consideration except loyalty to the Constitution of his country and fidelity to its principle, held that the act of Congress providing for the bringing of the case into the Court was in violation of the Constitution, and therefore void, and that the Court was without jurisdiction. The criticisms upon Judge Marshall were that he favored the theory of a strong central Government and considered the Constitution as supreme over both State and National Legislature, repugnant to its provisions; but he maintained the supremacy of the Constitution for the purpose only of establishing a more perfect Union, and for the promotion of the general welfare, and for maintaining the rights of man, and constitutional free government, and nothing can be found in his decisions that could, by any possible interpretation, give color to a doctrine that the power of the Constitution authorized the

building up of a system of administration, and domain by the Government, over people anywhere upon the face of the globe, without their consent.

With such an illustrious example of independence before it as was thus given by the first Great Chief Justice, it is not strange that the Supreme Court of the United States has rarely been the subject of unfavorable criticism either by the people at large, by statesmen or by men learned in the law; and with such an example set by Chief Justice Marshall surely none can doubt that our Supreme Court as at present constituted will, in important cases now, or hereafter pending before it, involving constitutional questions, act independently of executive influence or patronage or partisan bias; and will render judgments that will commend the court and all its distinguished and able members to the same approval with which the present generation regards the judicial character and the opinions of Chief Justice Marshall; and will uphold the great Constitution, and apply its principles, so ample in the rights of the individual citizenship, so that the humblest in the land will feel and will be secure against the encroachments of centralized power, and against the attacks of interests that are inimical to the general good and subersive of the principles of a free Government.

The work and life of Judge Marshall in its benefits to the nation and to the world are little less valuable than were the life and works of Washington. And it is believed Washington was a special instrument in the hands of Providence for obtaining a recognition of the United States as a free and independent Government among the nations of the world, so I believe John Marshall was a chosen instrument of Providence for the establishment and perpetuity of constitutional Government in this country upon a basis of principles that will give it permenance, and which will ever be broad enough to be adapted to the Government of a free people, who will always remain loyal to the principles of true Republicanism, however boundlessly they may expand.

And I feel sure that with the example of this illustrious man before us, no Chief Justice of that, the greatest of all Human Tribunals, will ever sit in that high place and reverse

the precedents of Judge Marshall or hold that the great Constitution as expounded by him, has served its day and generation, and that its principles as expounded by Judge Marshall, so powerful for upholding the rights of a free people and of establishing freedom among mankind are too old or too circumscribed for any growth our country may make in the near or remote future.

To the members of the bar, what an inspiration we may all find in the life of him whose memory we this evening commemorate! Such lives show the inestimable value to a nation and to the world, of a great leader in civil life, and while we would not under-estimate the services of the great soldiers of our country, we can never sufficiently value the character or too highly commend the virtues of John Marshall, who, in the humble walks of peace, has done so much to exalt the power and the influence of the civilian in the establishment of constitutional Government in this country.

All may emulate his example, and while all will fall short in degree, yet, if we can so discharge the responsibilities of our profession within our circumscribed and humble spheres, that at life's close we have no regret, it may be given us to realize at the end

"What a glory this world puts on
For him who with a fervent heart goes forth
Under the bright and glorious sky, and looks
On duties well performed, and days well spent:
For him the wind, ay and the yellow leaves,
Shall have a voice, and give him eloquent teaching.
He shall so hear the solemn hymn that Death
Has lifted up for all, that he will go
To his long resting place without a tear."

HON. W. B. WRIGHT.

ADDRESS BY HON. W. B. WRIGHT.

"Marshall as a Judge."

Mr. Chairman, Ladies and Gentlemen:

It does not always follow when a man is chosen to fill a judicial office, that he deserves the title of Judge. An old lady with a very large projecting bonnet and a very small voice was a witness in a case. The Court, after repeatedly requesting her to speak louder impatiently ordered her to remove her bonnet, that her testimony might be heard. She arose to her feet and declined, asserting there was no law to compel a lady to remove her head gear in public. "Ah," said the Judge, "Since you know so much law, perhaps you had better take a seat here on the bench." She courtesied low and replied, "No, I thank your Honor, there are too many old women there now."

Happily, the remark does not apply to many judges.

Socrates once said, "Four things belong to a judge: To hear courteously, to answer wisely, to consider soberly, and to decide impartially." Courtesy, wisdom, soberness, (that is calmness) and impartiality, are four sterling attributes, and yet it seems to me the ideal judicial character is not completely rounded out unless we add to them, courage. All these qualities were possessed in marked degree by the hero of this occasion.

When he entered upon the discharge of his duties as Chief Justice of the highest tribunal in this nation, the Court had been organized eleven years and had decided only about one hundred cases, none of them involving questions of much importance to any one except the parties to the suits. The Constitution had not been construed. Two political parties existed, one holding to the idea that the Federal Government under the Constitution was vested with almost exclusive sovereign power; the other holding to the idea that sovereignty resided or remained in the States, and any State had a right within its jurisdiction to nulify an act of Congress, or ignore the judgments of the Federal Courts. The enforcement of the one idea meant the subjection of the States and of the indi-

vidual citizen to the whims of the Congress and the executive. If the other idea should prevail it meant a Federal Government in name only, a Government depending for its power upon the sufferance or acquiesence of the States. Both ideas were extreme and arose from different and opposing constructions of the contending parties. It devolved upon the Court of which he was the head and which his great intellectuality dominated, to define the extent and limits of the powers granted by the States to the Government in general terms by the Constitution.

He wrote most of the opinions and is credited with dictating the policy of the court in nearly all the cases involving important constitutional questions during his long term of service.

He held that the Constitution was not mere paper, but that it meant something; that by its adoption the people had not only created a government, but had delegated to its real powers, which it might exercise, and with the exercise of which no State, even in its own territory or jurisdiction, had any right to interfere.

He held that the Supreme Court of the United States was the final judge of the limit and extent of those powers. He held that an act of Congress not within the powers granted was void.

He held that an act of the Legis'ature of a State dealing with a subject over which Congress had been given exclusive power by the Constitution was void.

He held that the construction of a State statute or a State Constitution by a State Court was final.

He held the commander of a war ship liable in damages to a person injured, though he acted u nder instructions from the President, upon the ground that instructions, though from the highest executive officer of a nation, if unwarranted by law, could not legalize a trespass.

There may not appear to be much in these short statements of a few of the holdings of this great judge. The principles stated are now familiar to every lawyer long before he qualifies himself to practice. They are now treated as fundamental principles of constitutional law. Text writers and Courts refer to them as axiomatic propositions—and yet, he

was the first to give them form; they are the judicial children of his fertile brain, and serve in a great measure to draw the line between federal and State authority and illustrate the limitations of the power of the Government to interfere with the individual rights and liberties of a citizen. When they went forth they were often in danger of being crushed between the upper and nether stones of conflicting political ideas. One case will illustrate how his decisions were often treated. In the case of Worcester vs. the State of Georgia, he held a statute of Georgia void as in conflict with the Constitution. The State openly refused to carry out the decision, and when the attention of President Jackson was called to it, he sarcastically remarked: "John Marshall has made his decision; now let him execute it."

The Court can not go forth with sword and bayonet and cannon to execute its decrees, but the opinions of John Marshall went forth with the flaming sword of right reason, and enforced themselves by the irresistable power of their logic and completeness.

Judge Story, for many years an associate of Marshall, says of his work in the Court: "His master mind has presided in their deliberations, and given to the results a cogency of reasoning, a depth of remark, a persuasiveness of argument, a clearness and laboration of illustration and an elevation and comprehensiveness of conclusion to which none other offers a parallel."

The manner in which his logic confused his critics is well illustrated by a remark of John Randolph, one of his bitterest political enemies: One of his opinions was being criticized severely, "Yes," says Randolph, "John Marshall's opinion is all wrong, but the trouble is, there is not a man in the United States Senate who can point out wherein it is wrong." And thus it was that although the judgement of the Court was not always enforced in the particular case and seldom escaped severe criticism, the principles laid down in the opinions of Marshall forced themselves upon the reason and conscience of the nation and were adopted and now remain the settled law of the land.

While this calmness and courage were often tried, his judicial fitness and impartiality were never more severely tested than in the trial of Aaron Burr for treason, at which he presided. Burr himself had defined law to be "whatever is boldly asserted and plausibly maintained." His hand was reeking with the blood of Alexander Hamilton, the bosom friend of Marshall. The administration was making every possible effort to secure his conviction. The Federalists despised and hated him; the mob demanded his blood; he had no friends; he was a cunning, unscrupulous, dangerous man; his conviction would have been applauded by the nation. He was before the Court charged with treason. Marshall knew how popular a conviction would make him, and how unpopular he would be if Burr was acquitted. But treason was the charge. The Constitution provides that "treason against the United States shall consist only in levying war against them or adhering to their enemies, giving them aid and comfort," and that no conviction shall be had unless an "overt act" be proven by the testimony of two witnesses. The charge was not made out by the evidence, and Marshall so instructed the jury and practically directed a verdict of acquittal. It is certain that he keenly felt the condemnation of his action, which he knew was sure to come, for in his opinion in that case, he writes, "No man is desirous of becoming the peculiar subject of calumny. No man, might he let the cup pass from him without reproach, would drain it to the bottom. But if he has no choice in the case; if there is no alternative presented to him but a dereliction of duty or the approbrium of those who are denominated the world, he merits the contempt as well as the indignation of his country, who can hesitate which to embrace." Noble words are these. They cause the judicial character to stand out in bold relief. They prove his fitness for the place he held, or any other. They show that individual rights and liberties are safe in the hands of the Courts. They furnish an inspiration for any man who reaches the bench and bid him select for his model one of the highest and best representatives of the American Bench, John Marshall, the Judge.

ADDRESS BY ADA H. KEPLEY.

"Marshall as a Patriot."

Ladies and Gentlemen:

The great element in the character of Chief Justice Marshall was Patriotism. He might justly have made his own the words of Coriolanus: "I do love my Country's good, with a respect more holy, more tender, more profound than mine own life." In whatever position he labored, clear cut, clean, and distinct above every other motive, his ends and aims were all his country's. His fellow countrymen do not know him yet, nor all they owe to him. It was the large hope of one who loved his life, and who originated the thought in Illinois from whence the Nation received it, that these meetings would introduce the great John Marshall to his countrymen, and inspire them with the same love, and zeal and patriotism he felt for our Native Land.

John Marshall came into existence at a thrilling time in the history of the Republic. History claims he was born to dream dreams and see visions. He might have heard the words, he no doubt knew, "Let all the ends thou aimst at be thy Country's, thy God's, and Truths."

On every hand was strife, over new and great governmental questions, for a Constitution had been born, the like of which the world had never seen before, and grave questions of policy, and adjustment to new conditions, and untried theories were before the people; patriots as honest espoused different sides of these and they regarded their opponents with suspicion and alarm. There were Aaron Burrs, Benedict Arnolds, and other traitors and tories, on every hand.

The old world was doing all it could to destroy the new Government that had denied and denounced the right of Kings to rule, and who had, so to speak, published it on the mountain tops, that all the world might hear and understand, and that had announced as clearly the right of the governed to rule, make their own laws and attend to their own business.

ADA H. KEPLEY.

The grand motive in John Marshall's life was to stand for a united country, on battle fields, in camps, in halls of legislation, in councils of State, in foreign courts, in the judiciary, and he did it, no matter what the obstacle, the harassment or the cost.

While others saw one side only of the great questions of Government, Marshall, the patriot, rose as on eagle's wings into the cool, clear heights of being, where he scanned and weighed them in the rare air of pure reason and with an irresistible logic, in the fear of God, free from passion and prejudice, he swept the whole field of vision, mastered the whole subject, and then, without fear of consequences, gently but firmly announced the results that could not be refuted.

It was as if with a mighty spiritual searchlight he swept the dark sky, illuminated the whole, and found the precious truth that was needed for the enlightment of our people and the world.

In office the most of his life he took it with reluctance, and often refused to accept, but the people would have him. His great desire was to practice his profession, the law, and stay at home with his family; but when a need arose for his services, he dropped everything and took his place for service, however hard. People trusted him, for he was absolutely pure hearted, and sincere, and was beloved of men. Washington was 21, Patrick Henry 19 years of age when Marshall was born. With Washington the father of John, Thomas Marshall, was closely associated, so the son was full of the patriotic zeal of his times. At 22 we find him a lieutenant with the Culpepper Minute men, young fellows like himself, who were inspired by the patriotic addresses he made to them, as dressed in suits of green, with Patrick Henry's thrilling words "Liberty or Death" in white letters across their breasts they marched to fight the foe. Over their heads they carried a banner with a rattle-snake upon it, and the legend "Don't tread on me."

Young Marshall was ordered to lead a flanking charge at Stone Bridge, where his father fought gallantly as a major, and so fierce was the attack that the day was won.

At the bloody field of Brandywine, the Marshalls, father and son, did noble service, and John took part in the battles of Germantown, Monmouth and Iron Hill, rising to a captaincy. Going to take charge of some men he was so poor and ragged he was refused entertainment at an inn. At Valley Forge he shared the sufferings of that terrible winter with the troops, cheerful, uncomplaining and hopeful. He was often made a judge of camp affairs because of his unfailing patience, kindness and justice, and he won the deep friendship of Washington as well as of the men in camp. Marshall was a number of times a member of the Virginia Legislature. At thirty-three years he ably advocated and defended the adoption of the Federal Constitution, silencing the ablest opponents to it, and there were many older and well equipped, so it was a great victory for the young patriot as well as for the people.

He was in Congress twice; once at the earnest solicitation of Washington, then once as Secretary of War, and Secretary of State, and finally as Chief Justice laboring valliantly for his beloved country. It should not be forgotten he served the commission sent by our Government to France, and so well did he manage that the people, delighted in him, and Patrick Henry, who hated him politically, sent word,—tell Marshall I love him for what he has done on the French Commission.

In the National and State legislative bodies when grave questions arose he was frequently warned that certain things if done would work his political ruin, but he calmly followed the dictates of his own heart and conscience, fearing nothing, and time, the great tester of men's actions, has crowned him patriot.

In my own mind I join Lincoln and Marshall, for they are alike in many ways. Marshall was the expounder, Lincoln the defender of the Constitution, and the blood of Lincoln was the seal upon the work that Marshall did for a united people.

Able lawyers have said Marshall was surely sent of God to guide our Nation into the safe harbor of constitutional law.

I wish now to inquire if there is not something of practical benefit we may learn from the life of this great Heaven sent soul to help us on to a higher patriotism, and *that* is one of the objects of this meeting.

John Marshall was the oldest of fifteen children, and the family was poor except in affection and culture, and in love of country. John was taught at home, studying Latin one year with the Scotch rector of the church, and was a year at a school, where he in no way distinguished himself. The father was well read in good literature and taught his children to love it. John was especially fond of the Bible, history, Shakespeare, Milton, Dryden and Pope, and his memory was stored with treasures from them all, and there is no doubt this reading formed his clear, distinct and simple style, and high ideals. It is written of him that he was a dreamy, romantic boy, who loved to wander in woods and fields, no doubt seeing visions as he meditated upon the deep things of the Universe. Like David of old, John Marshall had the blue vault of Heaven for the dome of his college—and there is no doubt he communed with God—for he was absolutely clean of heart and free from guile, and a sincere and earnest church man, and Christian. He reverenced his father and mother, and never gave them serious cause for offense.

Mary Keith, the mother of John Marshall, was a descendant of a Scotch family that fought with Bruce. It was inevitable that her son should have high love and zeal for God and country. Marshall said his mother was a woman of strong character and made a powerful impress upon him for good. To his last hour he said each night the little prayer his mother taught him, and that our mothers teach us, "Now I lay me down to sleep."

To children Marshall was kind, to women chivalrous, to his family deeply devoted, to all, even the humblest, kind and gentle. He loved the simple homely things in life, and his affairs were all conducted with great simplicity, and after all these are the great things.

When he wrote his epitaph, he said: John Marshall, son of Thomas and Mary Marshall, married to Mary Willis Ambler ———, Died ———, and other hands added the date of his death.

He desired to be remembered as the son of his dear parents, and the faithful husband of his beloved wife.

Marshall married Mary Willis Ambler after the war, and they lived a happy domestic life together for 50 years at Richmond, where their ashes repose. When the wife from long invalidism was no longer able to attend church with him, he would read the service over to her before he went, and after she was no more, he would sit by the chair she occupied in life, and read the service in silence. He was not ashamed to confess that he shed tears for her each night, who had been the "solace of his life."

We cannot all hope to possess the native powers that shall make us mighty in the State, and in the judiciary, or in places that demand the possession of the highest powers, but we may all, however humble our endowments, possess and practice the virtue of patriotism, and so help to perpetuate our institutions; we can be pure of heart, and as guileless, as faithful church men and women and as honest, earnest & christians as John Marshall; we can be patient and gentle and kind and helpful to all; we can read the books he read and master their noble ideas; we can learn to dream dreams and see visions of our country's good; we can study the great book of nature, and be humble before Him by whom it was made. We can reverence our fathers and our mothers, giving them no cause for offense; we can teach the children the same virtues, as elemental to the highest patriotism.

Fathers in these times so troubulous, and big with portents we do not understand, you can teach your sons and daughters patriotism, and not partizanism. Mothers, like Mary Marshall, you can fill the heads and hearts of your little ones so full of patriotism, so full of God and country, that our institutions shall strike yet deeper roots, and great men and women shall be born that shall meet a need in their day and generation like Marshall met in his.

The common homely virtues of John Marshall, cleanness of heart, industry, faithfulness to God, are fundamental in character and the basis of all true greatness.

Neal Dow, the patriot, died at 93 years, after a life of good deeds for his country. As his last moments drew near he took the hand of the faithful daughter who ministered to him, called

her mother, and began the little prayer he learned in infancy at a loving mother's knee; "Now I lay me down to sleep." The voice failed, the eyes closed, he was asleep.

When I read that the great John Marshall, every night before he composed himself for rest, said the little prayer his strong-hearted mother taught his baby lips to repeat, I said this is what Jesus meant when he said we must become as little children.

Down at the root of all great natures is the child likeness we see in John Marshall. Reverential, gentle, kind, and who shall gainsay that the little child taught to pray at a faithful mother's knee gets its first impulse to a high patriotism like John Marshall's, and so steadies the great ship of state with all its precious burdens, and helps guide her through every storm that rages, into safe harbors and into all ports. Let us cultivate the simple, homely virtues that lead to the highest patriotism even to praying John Marshall's prayer:

"Now I lay me down to sleep,
I pray the Lord my soul to keep;
If I should die before I wake,
I pray the Lord my soul to take, Amen."

Rev. S. M. Morton pronounced the benediction:

The grace of our Lord Jesus Christ, the blessing of God the Father, and the communion of the Holy Spirit, abide with you, and with all in this broad land and every other who fear God and love their country. Amen!

After the addresses the members of the Bar and invited guests numbering more than one hundred repaired to the banquet room to partake of a banquet which was awaiting them. Hon. Benson Wood was toastmaster, and the following toasts were responded to:

"The Dignity ot the Lawyer"—W. S. Holmes.
"The Legacy of Marshall"—Geo. F. Taylor.
"Marshall as a Man"—Judge D. L. Wright.

HON. D. L. WRIGHT.

TOAST BY HON. D. L. WRIGHT.

"Marshall as a Man."

Mr. Toastmaster, Ladies and Gentlemen:

We have this evening heard the many virtues of that great and good man extoled, eulogized and glorified, but how many of us present stop for a moment to think that John Marshall was only a man and lived among men; usually able and always capable of participating in and enjoying just such a bountiful repast as we have this evening partaken of.

His boyhood days were spent in the same way that other boys of his time spent their days. His evenings were employed in the cultivation of his mind, and the sturdy parent was not unmindful of the welfare of his son, as he employed a competent tutor for John and the other fourteen of his flock.

As a young man he was fond of sports of his day. He was a good sprinter, champion at the game of quoits or the pitching of horse shoes, an expert whist player and a fine billiard player. These games he enjoyed and participated in even at the age of seventy.

He was a practical joker and enjoyed a good joke, even at his own expense. It is said of him that one day while in the library he fell from a step ladder, bruising himself quite severely and scattering an armful of books over the floor. When an attendant, coming to his assistance and relief, inquired if he were hurt, his Honor replied in his dry way, "No, but that time I was completely floored."

In stature he was tall, lean, lank and ungainly; in appearance, sloven, usually wore an unbrushed, long-skirted black coat, and a voluminous white cambric cravat, usually soiled. He was industrious, studious, courteous, affable, and above all things, honest. As a civilian, modest; as a public officer, great. It was these plain and simple virtues that made him great; yet, with all, he was only a man, true to his Maker and true to man.

In the forenoon there were John Marshall Day exercises at the High School, at which Gus A. Elbow, of the Effingham Bar, delivered the address. In the afternoon there was a John Marshall program at Austin College, Harry S. Parker, of the Effingham Bar, making the principal address.

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